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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/709,078 | 04/12/2004 | Debra K. Stephens | U03-0193.77 | 3077 |

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EXAMINER

SMITH, SHEILA B

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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2617

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/709,078 | STEPHENS | |
| | Examiner | Art Unit | |
| | Sheila B. Smith | 2617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-10 rejected under 35 U.S.C. 102(b) as being anticipated by Mizikovsky (U. S. Patent Number 5,559,860).

Regarding claim 1, Mizikovsky discloses essentially all the claimed invention as set forth in the instant application, further Mizikovsky discloses user selectable response to an incoming call at a mobile station. In addition Mizikovsky discloses a method of automatically answering a mobile phone comprising: receiving a call; detecting the calling party's phone number using a caller ID function (which reads on column 11 lines 40-65), determining if the calling party's phone number has been flagged as a phone number capable of causing the mobile phone to answer itself (which reads on column 13 lines 1-21), and automatically answering the call if the calling party's phone number is flagged as a phone number capable of causing the mobile phone to answer itself (which reads on column 12 lines 60-67).

Regarding claim 2, Mizikovsky discloses essentially all the claimed invention as set forth in the instant application, further Mizikovsky discloses the mobile phone answers itself only after a pre-set number of rings (which reads on column 12 lines 60-67).

Regarding claim 3, Mizikovsky discloses essentially all the claimed invention as set forth in the instant application, further Mizikovsky discloses the step of determining if the

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calling party's phone number has been flagged as a phone number capable to answer itself comprises: of causing the mobile phone accessing a table containing one or more phone number entries that have been identified as incoming calling phone numbers answer itself (which reads on column 7 lines 21-31).

Regarding claim 4, Mizikovsky discloses essentially all the claimed invention as set forth in the instant application, further Mizikovsky discloses the step of determining if the calling party's phone number has been flagged as a phone number capable of causing the mobile phone to answer itself comprises accessing the mobile phone's contact/phonebook (which reads on 46 caller ID memory) entries phone number matches a to determine if the incoming phone number in the mobile phone's internal phonebook (which reads on column 12 lines 60-67); and if a match is found, determining whether an override flag has been set for the phone number in the mobile phone's internal phonebook, said override flag capable of causing the mobile phone to answer itself (which reads on column 7 lines 21-31).

Regarding claim 5, Mizikovsky discloses essentially all the claimed invention as set forth in the instant application, further Mizikovsky discloses automatically answering a mobile phone comprising: receiving a call; diverting the call to a voice mail feature if the call is not answered within a pre-set number of rings; monitoring the keypad entries input by the calling party (which reads on column 2 lines 21-31); determining if the keypad entries input by the calling party match a pre-set code; if the keypad entries input pre-set code, returning by the calling party match the control of the call to the mobile phone; and automatically answering the call (which reads on column 1 lines 13-34).

Regarding claim 6, Mizikovsky discloses essentially all the claimed invention as set forth in the instant application, further Mizikovsky discloses automatically answering a mobile phone comprising: means for receiving a call; means for detecting the calling party's phone number using a caller ID function (which reads on column 12 lines 60-67); means for determining if the calling party's phone number has been flagged as a phone number capable of causing the mobile phone to answer itself, and means for automatically answering the call if the calling party's phone number is flagged as a phone number capable of causing the mobile phone to answer itself (which reads on column 2 lines 21-31).

Regarding claim 7, Mizikovsky discloses essentially all the claimed invention as set forth in the instant application, further Mizikovsky discloses the system answers itself only after a pre-set number of rings. (which reads on column 2 lines 26-31)

Regarding claim 8, Mizikovsky discloses essentially all the claimed invention as set forth in the instant application, further Mizikovsky discloses the means for determining if the calling party's phone number has been flagged as a phone number capable of causing the mobile phone to answer itself comprises: means for accessing a table containing one or more phone number entries that have been identified as incoming calling phone numbers capable of causing the mobile phone to answer itself (which reads on column 2 lines 21-31).

Regarding claim 9, Mizikovsky discloses essentially all the claimed invention as set forth in the instant application, further Mizikovsky discloses the means for determining if the calling party's phone number has been flagged as a phone number capable of causing the mobile phone to answer itself comprises means for accessing the mobile phone's contact/phonebook entries to determine if the incoming phone number matches a phone number in the mobile

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phone's internal phonebook, and if a match is found, means for determining whether an override flag has been set for the phone number in the mobile phone's internal phonebook, said override flag capable of causing the mobile phone to answer itself (which reads on column 12 lines 60-67).

Regarding claim 10, Mizikovsky discloses essentially all the claimed invention as set forth in the instant application, further Mizikovsky discloses automatically answering a mobile phone comprising : means for receiving a call; means for diverting the call to a voice mail feature if the call is not answered within a pre-set number of rings; means for monitoring the keypad entries input by the calling party, means for determining if the keypad entries input by the calling party match a pre-set code (which reads on column 12 lines 60-67); if the keypad entries input by the calling party match the pre-set code, means for returning control of the call to the mobile phone; and means for automatically answering the call (which reads on column 7 lines 21-31).

Response to Arguments

2. Applicant's arguments filed 2/15/06 have been fully considered but they are not persuasive.

Regarding applicants argument that the prior art of record Mizikovsky fails to disclose the mobile phone to automatically answer itself, the examiner disagrees and points out to further clarify the position taken column 3 lines 5-11 discloses "a telephone answering machine, voice mail system, or the like, to record a message from the calling party without intervention by the user at the mobile station the examiner contends that this passage reads on the claim limitation.

The examiner restates and stands by the above rejection.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (571)272-7847. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S.Smith 
April 16, 2006


JOSEPH FEILD
SUPERVISORY PATENT EXAMINER